

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Spain, Cameron, Cunningham, DiDonna, Voigt, Olvany (appointed during meeting)

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

Channel 79

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Acting-Chairman Spain read the following agenda item:

**GENERAL MEETING**

**Interview(s) and/or possible appointment of member to replace Fred Conze.**

Mr. Spain said that under the Town's Code of Ordinances, the Planning & Zoning Commission is to select a replacement who will serve in Mr. Conze's place until the next election, which is in November 2013. The Republican Town Committee suggested two replacements. One of those persons has withdrawn from consideration. The Planning & Zoning Commission has previously interviewed the other replacement, Stephen Olvany, and was very pleased with his credentials and qualifications. After a brief discussion, the following motion was made: That the Planning & Zoning Commission select Stephen Olvany of Echo Drive North to fill the unexpired term of Fred Conze until November 2013. That motion was made by Ms. Cameron and seconded by Mr. Voigt. In the discussion that followed, Commission members noted that Mr. Olvany is well qualified and well versed in commercial real estate, which had been one of Mr. Conze's strengths as well. The motion was unanimously adopted, and Mr. Olvany was selected to serve on the Planning & Zoning Commission.

Mr. Ginsberg said that Mr. Olvany currently serves on the Zoning Board of Appeals and by Statute he cannot serve on both the Zoning Board of Appeals and the Planning & Zoning Commission at the same time. Mr. Olvany submitted his written resignation from the Zoning Board of Appeals. He was then sworn in by the Town Clerk as a member of the Planning & Zoning Commission. He took his place with the other Commission members.

**Possible filling of Chairmanship and any other officer openings.**

Mr. Spain asked if there were any nominations for anyone to serve as Chairman of the Planning & Zoning Commission. The following motion was made: That Mr. Spain, who serves as Vice-Chairman, be nominated to serve as Chairman for the remainder of 2013 and until a new Chairman is selected. The motion was made by Mr. Cunningham and seconded by Ms. Cameron. There were no other nominations for Chairman. Mr. Spain was unanimously elected Chairman for the remainder of 2013 and until a new Chairman is selected.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013  
PAGE 2 OF 22

Mr. Spain said that there is now a vacancy for Vice-Chairman and he asked if there were any nominations to serve in that position. The following motion was made: That Susan Cameron, who is currently Secretary of the Commission, be elected to serve as Vice-Chairman. The motion was made by Mr. Voigt and seconded by Mr. Cunningham. There were no other nominations for Vice-Chairman. Ms. Cameron was unanimously elected as Vice-Chairman.

Mr. Spain said that now that Ms. Cameron has been elected as Vice-Chairman, there is a vacancy in the Secretary position. The following motion was made: That Eric Voigt was nominated to serve as Secretary. The motion was made by Ms. Cameron and seconded by Mr. Cunningham. There were no other nominations for Secretary. Mr. Voigt was unanimously elected as Secretary.

Mr. Spain said that the Executive Session with Town Counsel to discuss pending litigation will be postponed in order to accommodate the members of the public who were present for the other agenda items. He then read the first public hearing agenda item:

**Site Plan Application #273-B, Board of Education, Darien High School, 80 High School Lane.**

Proposal to remove the existing scoreboard and install a new scoreboard at the northern end of the Stadium field.

Attorney Bruce Hill represented the Darien Athletic Foundation, which is a private non-profit group. They propose to replace and relocate the scoreboard that is currently located on the south end of the football field. They have obtained permission from the Board of Education, and now need Site Plan approval from the Planning & Zoning Commission. Mr. Hill said that there is a proposal for a concession stand/restroom building, which will be considered by the Planning & Zoning Commission at a public hearing now scheduled to be conducted on May 28, 2013.

The existing scoreboard is currently on the south end of the football field and track. The proposed location will be on the north end of the football field and track. The existing scoreboard measures 10.5 feet high x 24 feet wide and the bottom is about 10 feet above the ground level. The new scoreboard would be approximately 16.5 feet high x 25 feet wide and the bottom of the sign would be approximately 10 feet above the ground. In response to questions, Brian Bareez of Northeast Scoreboards, said that the support beams to hold up the sign will be visible from the back (north face) of the scoreboard. Mr. Hill said that there will be no signage or messages or other information on the back of the scoreboard. He said that there will be no noise generated from the scoreboard other than the buzzer system to indicate the end of play. Videos that were shown on the scoreboard would not have the sound emanating from the scoreboard, rather that sound would be from the existing speakers at the site. Peter Graham, President of the Darien Athletic Foundation, said that the new scoreboard would be capable of displaying video and other information on a screen along the top portion. Mr. Bareez said that the scoreboard is equipped with a dimmer facility so that in the evening or nighttime use, the brightness of the lights could be toned down. He said that the video system allows for a movie or other video feed to be displayed on the scoreboard but there are no speakers on or within the scoreboard. Mr. Graham said that the Board of Education and school administration will control and regulate the use of the scoreboard and when it is used. They did not expect any policy changes. He said that the funding for the scoreboard relocation and installation is from the private group.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013  
PAGE 3 OF 22

Mr. Ginsberg said that the scoreboard relocation and replacement is not something that requires a public hearing because of the nature of the activity. The following motion was made: That the Planning & Zoning Commission approve the proposed replacement and relocation of the scoreboard in accordance with the submitted plans. That motion was made by Mr. DiDonna, seconded by Ms. Cameron and unanimously approved.

Chairman Spain then read the following agenda item:

**Post Modern Home, 110 Boston Post Road, SB-E Zone.**

Discussion of proposed use to replace Goldenberry.

Commission members reviewed the submitted letter and attached materials regarding the proposed change of use from Goldenberry to Post Modern Home. Under Section 674e, a Special Permit is required for a home improvement supplier or contractor. Mr. Drew Clark, owner of Post Modern Home, said this is not a typical home improvement supplier that would sell paint or lumber, but they do provide services and products to designers and homeowners as they upgrade and improve their homes. Basically they are a showroom of furniture that has been restored. Ms. Cameron noted that the most recent use at the site has been Goldenberry and before that it was a Tupperware wholesaler, both of which were not in accordance with the current Regulations for uses in the Service Business East Zone. Mr. Clark said that the facility would not involve anyone displaying anything outside and items are not stored outside. It would be the showroom of restored furniture but it would not be the place where the furniture is actually restored. He said that they have a gentle ebb and flow of one or two visitors per hour. They are not a large scale sale production and the use does not generate large masses of clientele visiting the site. He said that the on-site parking will be adequate to meet their needs and the parking needs of other occupants within the facilities.

Mr. Olvany asked if outside display is allowed in that zone and Mr. Ginsberg indicated that it is only allowed if it is approved by the Planning & Zoning Commission.

Bob Calve, one of the owners of the property, said that Goldenberry was basically a wholesaler but they did have a minor retail component and it was very rarely busy. It might be busy sometimes like Valentine's Day, when people were picking up supplies. He said that the building does have an external loading dock that allows for easy delivery of the furniture to be displayed by Post Modern Home. He said that the business is a supplier to other businesses and designers who then do the improvements to the client's home.

Mr. Spain said that the use as described is not precisely as allowed by the current Zoning Regulations and the closer to a home improvement contractor or direct supplier of the items that become part of a home, the more it would be a home improvement contractor that is allowed by Special Permit. Mr. Ginsberg said he would work with the applicant and it is possible that a Special Permit application will be submitted in the near future.

Chairman Spain then read the following agenda item:

**EXECUTIVE SESSION**

To discuss pending litigation with Town Counsel.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013  
PAGE 4 OF 22

The following motion was made: That the Planning & Zoning Commission conduct an executive session to discuss pending litigation with Town Counsel and Staff. The motion was made by Mr. Voigt, seconded by Mr. DiDonna and unanimously approved. The public stepped outside the meeting room and the Commission conducted the executive session in private with attorney John Louizos. No actions were taken during the executive session. At approximately 9:50 P.M., the following motion was made: That the Planning & Zoning Commission conclude the executive session and return to the General Meeting at which the public will attend. The motion was made by Mt. Voigt, seconded by Ms. Cameron and unanimously approved.

Chairman Spain read the following agenda item:

**GENERAL MEETING**

Discussion and potential vote on stipulated judgment for Kleban Day Street LLC vs. Darien Planning and Zoning Commission.

Commission members noted that they had discussed the pending litigation with Town Counsel and Staff during this evening's executive session and a draft stipulated judgment had been reviewed. Mr. Louizos said that the changes to the draft resolution include clarification regarding signage visible from the Boston Post Road, parking reviewed at 6 months and 12 months after opening, product retail sales use in the front portion of the site adjacent to the Boston Post Road, the use of the Boston Post Road windows by the retailer, mutual releases, and a clarification with regard to the exterior elevation drawings. After further discussion, the following motion was made: That the Planning & Zoning Commission authorize Town Counsel to revise the draft stipulated judgment in accordance with the discussion and to enter into a stipulated judgment to resolve the pending litigation involving Kleban Day Street LLC vs Darien Planning & Zoning Commission. The motion was made by Mr. DiDonna and seconded by Mr. Cunningham. All voted in favor of the motion, except Mr. Olvany who abstained to avoid any potential appearance of conflict of interest. The motion was passed by a vote of 5-0-1.

Chairman Spain then read the following agenda item:

**PUBLIC HEARING**

**Continuation of Public Hearing regarding Land Filling & Regrading Application #300, David & Julie Gorski, 7 Pleasant Street.** Proposing to place fill and construct associated retaining wall on the western part of the property, and perform related site development activities. The subject property is located on the south side of Pleasant Street, approximately 200 feet east of its intersection with Gardiner Street, and is shown on Assessor's Map #45 as Lot #120, in the R-1/3 Zone. *PUBLIC HEARING TO BE CONTINUED TO MAY 14, 2013, AS AGREED TO BY APPLICANT.*

Mr. Spain announced that the public hearing on this matter will be continued to May 14, 2013.

Chairman Spain read the following agenda item:

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013  
PAGE 5 OF 22

**Coastal Site Plan Review #285, Land Filling & Regrading Application #302, James & Janeen Eckert, 165 Long Neck Point Road.** Proposing to construct an in-ground pool, retaining walls, and expand on-site drainage, and perform related site development activities within a regulated area. The subject property is located on the east side of Long Neck Point Road, approximately 500 feet south of its southernmost intersection with Pear Tree Point Road, and is shown on Assessor's Map #61 as Lot #3 in the R-1 Zone.

Attorney Robert Maslan represented the applicants and explained that this is a rear lot on the east side of Long Neck Point Road and it is adjacent to the water. He submitted a booklet of photographs of the existing site conditions. He explained that the work would be between the house and the seawall but none of the work will be within 100 feet of mean high water and thus is not within the critical area as depicted in the Coastal Area Management Regulations.

Tom Ryder explained that the proposed pool will be constructed on the east side of the existing house. A new retaining wall will be constructed to the east of the swimming pool and to the east of the proposed fill that would be to the south of the pool. The pool will measure 42 feet by 22 feet. The area to the south of the pool will be filled and a level lawn area will be created at approximately elevation 22. This area will become virtually flat and be even with the pool. Much of the fill for this will come from the excavation for the pool. Three new Cultec storm drainage units will be installed to the east of the proposed retaining wall. The work will be approximately 130 feet from the seawall and no coastal area management resources will be impacted by the work.

The April 12, 2013 e-mail from Kristal Kallenberg of the Connecticut Department of Energy and Environmental Protection (CT DEEP) indicates that there are no inconsistencies with the Connecticut Coastal Area Management Act.

Mr. Ryder said that the main gradient still will flow from the west down to the east and there will be no change to the drainage pattern. The filling and regrading will involve approximately 190 cubic yards of material excavated from the pool area and approximately 50 additional cubic yards of fill material will be brought to the site. There is an easement through the southerly portion of this Eckert property. That easement area will not be changed due to the proposed work. The easement is just to the north of the existing fence, which is approximately on the southerly boundary of the Eckert property. Attorney Maslan said that no regrading will impact the easement or the land to the south. He explained that the easement is in favor of the owners to the west so that they can get from their house lot to a small parcel of land that they own adjacent to the water.

Attorney Kaufman represented the Reardon's, the owners of the front lot. He said that they just received notice last week because the ownership is technically in a trust that is based in North Dakota and the notice was sent to that location. He said that in principal, they have no objection to the pool. There might be a possible legal issue about the height of the fence and/or hedge to be planted on top of the retaining wall because it might impact their view. He claimed that the Coastal Area Management Regulations protect public views and vistas from streets like Long Neck Point Road. He said that the view has already been impacted approximately 40% by the construction of an addition to the Eckert residence. There is pending litigation regarding that project.

Attorney Kaufman asked the Commission for continuation of the public hearing regarding the swimming pool and regrading so that they will have ample time to thoroughly review the

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013  
PAGE 6 OF 22

application materials and formulate a response. He apologized that he would be out of the country for much of the month of May. After some discussion, the Commission agreed that the public hearing would be continued to June 4, 2013. The following motion was made: That the Planning & Zoning Commission continue the public hearing regarding this matter at 8 P.M. in Room 206 of Town Hall on June 4, 2013. The motion was made by Ms. Cameron, seconded by Mr. Voigt and unanimously approved.

At about 10:25 p.m., Chairman Spain then read the following agenda item:

**Special Permit Application #275, Mark Swimm/528 Post Road, LLC., 528 Boston Post Road.**  
Proposing to establish personal service use/wellness center incorporating skincare, bodycare, and personal fitness training within a portion of the existing building at 528 Boston Post Road. The subject property is located on the south side of Boston Post Road, approximately 525 feet southwest of its intersection with Old King's Highway North, shown on Assessor's Map #35 as Lot #6, DB-2 Zone.

Vice Chairman Cameron recused herself and departed from the meeting in order to avoid any potential perception of a conflict of interest.

Mark Swimm explained that he now owns the subject property that was formerly occupied by Thomas Golden Company. They are asking for a Special Permit to establish a personal service use/wellness center on the first floor on the building. The three people who propose to operate this new business now work across the street at a similar business.

Mr. Ginsberg explained that the personal service use does require a Special Permit approval from the Planning & Zoning Commission. The concerns are the traffic flow and parking area. He said that this is a proposed inside use and will have no external storage or display activity.

It was explained that the proposed business will provide one-on-one services to clients and each client appointment is approximately a half hour. They leave a gap between client appointments so that the client can leave the site before a new client arrives and the personal service provider can prepare for the next client. This will be one-on-one fitness training, not group classes and not having more than one client for that use at a time. All the uses include skincare, body care, and physical therapy. Each of the three professionals would be providing services to one client at a time.

Mr. Swimm said that the proposed wellness center will occupy two of the three units within the building (the two units on the first floor) and his company will be occupying the third unit in the building.

There were no comments from the public regarding the proposed use and activities. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Voigt, seconded by Mr. DiDonna and unanimously approved.

Mrs. Cameron returned to the meeting. Chairman Spain read the following agenda item:

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013  
PAGE 7 OF 22

**GENERAL MEETING**

*Discussion and deliberation, ONLY on:*

**Business Site Plan #285/Special Permit, Land Filling & Regrading Application #294, Loren Meyer & Paige Ridley, 164 Old King's Highway South.** Proposing to: establish a new commercial sales and service use generally requiring external storage or activity; construct an addition to the existing building, with a new driveway; construct associated parking and landscaping; and perform related site development activities. The subject property is located on the west side of Old King's Highway South, at its northwest corner formed by its intersection with Cross Street.

Commission members noted that this is a complicated application and the discussion will take some time. Due to the late hour, there is a limited time available and the Commission decided to postpone the discussion on this matter until its meeting of May 28, 2013.

Chairman Spain read the following agenda item:

*Discussion, deliberation, and possible decisions on:*

**Business Site Plan #24-U, Gallianos Performance Training, 25 Old King's Highway North.** Proposing to establish a sports performance training, nutritional service, and adult strength and conditioning personal service use, in a portion of the space formerly occupied by Darien YMCA gymnastics program within the Goodwives Shopping Center. *DECISION DEADLINE: 6/27/2013.*

The following motion was made: That the Planning & Zoning Commission waive the process of reading each of the draft resolutions aloud because each member has had an opportunity to read the resolutions prior to the meeting. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved.

Commission members discussed the draft resolution regarding the proposed strength and conditioning facility in the Goodwives Shopping Center. There is some confusion about the number of clients at any given time. Discussion at the hearing indicated a maximum of 12 clients at the site, but the written application materials indicated 16. Commission members felt that the limit of 16 would be acceptable because of the adequate on-site parking conditions. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Voigt and seconded by Ms. Cameron. Mr. Cunningham and Mr. Olvany abstained from voting. The motion was passed by a vote of 4-0-2. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
May 7, 2013**

Application Number: Business Site Plan Application #24-U  
Gallianos Performance Training

Street Address: 25 Old King's Highway North  
Assessor's Map #71 Lot #19

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013  
PAGE 8 OF 22

Name and Address of Applicant & Bill Gallagher  
Applicant's Representative: 114 Strawberry Hill Ave., Apt. 201  
Stamford, CT 06902

Name and Address of: UB Darien Inc.  
Property Owner: Urstadt-Biddle Properties, Inc.  
321 Railroad Ave.  
Greenwich, CT 06830

Activity Being Applied For: Proposing to establish a sports performance training, nutritional service, and adult strength and conditioning personal service use, in a portion of the space formerly occupied by Darien YMCA gymnastics program within the Goodwives Shopping Center.

Property Location: The subject site is located within Goodwives Shopping Center, which is located on the south side of Old King's Highway North, approximately 150 feet southwest of its intersection with Brookside Road.

Zone: DC

Date of Public Hearing: April 23, 2013

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: April 12 & 19, 2013

Newspaper: Darien News

Date of Action: May 7, 2013

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:  
May 17, 2013

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 630, 904, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted information, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.



PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013  
PAGE 9 OF 22

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to establish a Personal Service Use in a portion of the space (about 3,300+/- square feet) formerly occupied by Darien YMCA gymnastics program within the Goodwives Shopping Center. The business will be providing Sports Performance, Nutritional Services, and Adult Strength and Conditioning. No change in the building footprint is proposed.
2. Galliano's Performance Training is considered a Personal Service use, which is a Permitted Principal Use under Section 632a of the Darien Zoning Regulations in the DC Zone. As noted within the submitted application materials, this is not an open gym, but rather, clients arrive for either class times or for private training, nutrition, or work with a coach. Classes may be as large as 16 clients.
3. As put forth by the applicant, Galliano's Performance Training may open as early as 6 a.m. on weekdays, and 9 a.m. on Saturdays.
4. According to the Darien Zoning Regulations, the shopping center would require a total of approximately 1000 on site parking spaces, but there are approximately 465-486 parking spaces for the 96,000+/- square foot building on the subject property. As part of previous applications for the Goodwives Shopping Center, the Planning and Zoning Commission made a finding under Section 904 of the Darien Zoning Regulations that due to the unique nature of the Goodwives Shopping Center, the parking is adequate. The proposed use is more parking intense than typical retail stores, but because they are only leasing a small portion of the Shopping Center (about 3,300+/- square feet), the Commission finds that no increase in parking spaces would be necessary. The Commission also finds that the proposed capacity of the on-site parking will meet the intent of the regulations.

NOW THEREFORE BE IT RESOLVED that Business Site Plan #24-U is hereby approved subject to the foregoing and following conditions, modifications and understandings:

- A. The Commission hereby approves the proposed Personal Service use as described in the application materials and at the Public Hearing. Final details of the floor plan may be modified subject to final approval by the Fire Marshal, Health Director, Planning & Zoning Director, and Building Official. Any final floor plans and use of the space must be consistent with representations made at the public hearing by the applicant, and this resolution.
- B. As proposed by the applicant at the public hearing and as outlined within the written submitted application materials, the Commission hereby requires that no class have more than 16 students. This limit is required by the Commission so as to minimize potential parking and traffic impacts on other businesses within Goodwives Shopping Center. Any change to this limit will require review and action by the Commission.
- C. Because of the nature of the business which is entirely indoors, and the unique location of Goodwives Shopping Center within a commercial zone, and the location of this space within the shopping center, the Commission places no limits on the maximum hours of operation.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013  
PAGE 10 OF 22

- D. There is no new impervious surface created as part of this application, and thus, the Commission waives the requirement for stormwater management under Section 880 of the Zoning Regulations.
- E. If needed, the applicant shall use the trash area and dumpsters located behind the building. If used by this tenant, the tenant shall work with others to keep it neat and orderly.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. The granting of this approval does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. Any desired signage requires review and action by the Architectural Review Board (ARB).
- H. This permit shall be subject to the provisions of Section 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (May 7, 2014). This may be extended as per Section 1028.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final approved plans by the Chairman, or this approval shall become null and void.

Chairman Spain read the following agenda item:

**Coastal Site Plan Review #255-A, Flood Damage Prevention Application #285-A, Hank & Johanna Hagey, 7 Tokeneke Trail.** Proposing to install a swimming pool with associated filling and regrading, and perform related site development activities within regulated areas.

Commission members discussed the draft resolution. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Voigt and seconded by Ms. Cameron. Mr. Cunningham and Mr. Olvany abstained from voting. The motion was passed with a vote of 4-0-2. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
May 7, 2013**

Application Number: Coastal Site Plan Review #255-A  
Flood Damage Prevention Application #285-A

Street Address: 7 Tokeneke Trail  
Assessor's Map #65 Lot #38

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013  
PAGE 11 OF 22

Name and Address of Property Owner & Applicant: Hank & Johanna Hagey  
7 Tokeneke Trail  
Darien, CT 06820

Activity Being Applied For: Proposing to install a swimming pool/spa with associated filling and regrading; and to perform related site development activities within regulated areas.

Property Location: The subject property is located on the east side of Tokeneke Trail approximately 600 feet south of its intersection with Old Farm Road.

Zone: R-1

Date of Public Hearing: April 23, 2013

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: April 12 & 19, 2013

Newspaper: Darien News

Date of Action: May 7, 2013

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:

May 17, 2013

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, and 820, of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plan, and the statements of the applicant, whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The prior proposal approved by the Commission on June 22, 2010, was to construct additions and alterations to the existing single-family residence including a screen porch and at grade patio; install a swimming pool/spa; and to perform related site development activities within regulated areas. Since that time, the house additions and alterations have been completed. The Hageys did not implement the pool aspect of that application, and on March 19, 2013, the Commission made the determination that the pool approval from 2010 did expire. The subject

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013  
PAGE 12 OF 22

application is for the construction of a pool in generally the same location as previously approved by the Planning and Zoning Commission.

2. Although there are both inland and tidal wetlands on the subject property, no EPC permit was needed, since there is no work within 50 feet of wetlands.
3. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
4. The potential adverse impacts of the proposed activity upon coastal resources, as designed and as modified within this resolution, are minimal and are therefore acceptable.
5. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
6. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #255-A and Flood Damage Prevention Application #285-A are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Pool construction shall be in accordance with the following plan, as submitted to the Commission:
  - “Site Plan for Pool”, prepared for Harry & Johanna Hagey, 7 Tokeneke Trail, by Trinkaus Engineering, LLC, scale 1”=20’, dated March 30, 2010 and last revised 3/27/13.All pool equipment shall be placed at or above the base flood elevation.
- B. During construction, the applicant shall utilize sediment and erosion controls as shown on the Site Plan for Pool, and as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- C. The Commission finds under Section 888a(1) of the Darien Zoning Regulations, the requirement for stormwater management is hereby waived due to the specific location of the 7 Tokeneke Trail property within the watershed and adjacent to the lagoon.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013  
PAGE 13 OF 22

- D. Prior to the request for a Certificate of Zoning Compliance, the applicant shall submit written verification from the project engineer that all aspects of the pool installation and associated grading have been completed in compliance with the approved plans and the Flood Damage Prevention Regulations.
- E. A final “as-built” survey with elevation data is hereby required to certify that the regrading, site improvements adjacent to the coastal resources and/or within the flood hazard area are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that all of the work, including installation of the pool, has been properly completed in accordance with the approved plans.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, any required review and approval by the Darien Health Department, and Zoning and Building Permits for the pool.
- H. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (May 7, 2014). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Chairman Spain read the following agenda item:

**Coastal Site Plan Review #84-D, Flood Damage Prevention Application #74-D, Land Filling & Regrading Application #301, Richard & Wendy Hokin, 25 Shipway Road.** Proposing to demolish the existing residence, construct a new single-family residence with associated filling and regrading, and perform related site development activities within regulated areas.

The draft resolution was discussed. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Ms. Cameron and seconded by Mr. Voigt. Mr. Cunningham and Mr. Olvany abstained from voting. The motion was passed by a vote of 4-0-2. The Adopted Resolution reads as follows:

PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
May 7, 2013

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013  
PAGE 14 OF 22

Application Number: Coastal Site Plan Review #84-D  
Flood Damage Prevention Application #74-D  
Land Filling & Regrading Application #301

Street Address: 25 Shipway Road  
Assessor's Map #55 Lot #126

Name and Address of Applicant &: Richard & Wendy Hokin  
Property Owner: 25 Shipway Road  
Darien, CT 06820

Name and Address of  
Applicant's Representative: Doug DiVesta, PE  
DiVesta Civil Engineering Associates, Inc.  
51 Painter Ridge Road  
Roxbury, CT 06783

Activity Being Applied For: Proposing to demolish the existing residence, construct a new single-family residence with associated filling and regrading, and perform related site development activities within regulated areas.

Property Location: Subject property is located on the south side of Shipway Road approximately 300 feet southeast of its intersection with Plymouth Road.

Zone: R-1

Date of Public Hearing: April 23, 2013

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: April 12 & 19, 2013

Newspaper: Darien News

Date of Action: May 7, 2013

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:  
May 17, 2013

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013  
PAGE 15 OF 22

- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to demolish the existing residence, construct a new single-family residence with associated filling and regrading, and perform related site development activities within regulated areas. The existing detached garage with living space above will be elevated. The subject property is 1.7+/- acres, and is served by public water and sewer.
2. The existing residence has a first floor elevation of 9.5. The new residence will have a finished first floor of 15.0. All mechanical units will be placed at or above elevation 14.0. This will meet the new FEMA requirements which go into effect in July 2013. This new proposed residence will be farther away from Long Island Sound than the existing residence. The existing detached garage with living space above will be elevated about two feet from its current elevation.
3. At the public hearing, the applicant's representative explained the proposed stormwater management, and noted that Cultec units will be installed to address stormwater quality from this project.
4. The Commission notes the need for the applicant's representative or property owner(s) to file a Notice of Drainage Maintenance Plan in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
5. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
6. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties.
7. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
8. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
9. The potential adverse impacts of the proposed activity on coastal resources are acceptable.
10. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013  
PAGE 16 OF 22

11. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #84-D, Flood Damage Prevention Application #74-D, and Land Filling & Regrading Application #301 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
- Hokin Residence 25 Shipway Road, Darien Connecticut, by Austin Patterson Disston Architects, dated 3/20/13, Drawing No. T-1, A-100, A-104, A-201, A-200, A-302.
  - Proposed Site Plan Hokin Residence 25 Shipway Road, by DiVesta Civil Engineering Associates, Inc., last revised 03/11/13, Sheet 1 of 2.
  - Details Hokin Residence 25 Shipway Road, by DiVesta Civil Engineering Associates, Inc., last revised 03/11/13, Sheet 2 of 2.
- B. Because of this property's location adjacent to Long Island Sound, the Commission hereby waives the requirement for a drainage report and analysis. As noted herein, the applicant is addressing stormwater quality by installing Cultec units.
- C. Because of the minor nature of the project, the Commission hereby waives the requirement for a performance bond.
- D. There shall be no kitchen or cooking facilities of any sort in any part of the garage structure. No part of the garage structure can be used as a dwelling unit or residence or apartment (even on a temporary basis). It may be used as temporary (maximum two weeks at a time) guest sleeping quarters with no business or commercial use.
- E. Prior to the issuance of a Zoning and Building Permit, a Drainage Maintenance Plan shall be prepared by a professional engineer and submitted to the Planning and Zoning Director for review and action. The Drainage Maintenance Plan requires the property owner and all subsequent property owners of 25 Shipway Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the issuance of a Zoning or Building Permit.
- F. Accompanying the Zoning and Building Permit applications and prior to commencing construction of the addition, more detailed drawings of the flood damage prevention venting design shall be submitted along with certification from a licensed architect and/or engineer that verifies that the final designs of the foundation and sidewalls comply with the applicable requirements. Upon completion of the foundation, and then again when the sidewalls are complete, the applicant shall provide written certification from the architect and/or engineer that the construction has been completed in accordance with the approved plans and the flood damage prevention requirements.



PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013  
PAGE 17 OF 22

- G. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the Proposed Site Plan and Details Plan in Condition A, above, and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- H. Once the project is complete, and prior to May 7, 2014, the applicant shall submit a final 'as built' map and written certification from the project engineer that all work, including but not limited to the site regrading and drainage system, has been properly completed in accordance with the approved plans. This shall include the final first floor elevation of the house, and the final elevation of the installed mechanical units.
- I. A detailed regrading design and storm water management system design has been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the request for the Certificate of Zoning Compliance or Certificate of Occupancy for the new house, the applicant shall submit an as-built survey for the land filling and regrading aspects of the project, as prepared by a licensed land surveyor, and it shall show the final finished grades with one foot contours, as well as the foundation location of the house.
- J. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes, but is not limited to, a Demolition Permit from the Darien Building Department, and a Sewer Disconnection and Connection Permits from the Sewer Services Department. Separate Permits will be needed for the elevation of the detached garage.
- K. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- L. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (May 7, 2014). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan as approved shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days and prior to the issuance of a Zoning or Building Permit.

Chairman Spain then read the following agenda item:

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013  
PAGE 18 OF 22

**Coastal Site Plan Review #284, Land Filling & Regrading Application #299, Steven & Maeve Zamsky, 66 Five Mile River Road.** Proposing to demolish the existing residence, construct a new single-family residence with associated filling and regrading, and perform related site development activities within a regulated area. *DECISION DEADLINE: 6/27/2013.*

Commission members reviewed the draft resolution. It was noted that the garage on the right, rear portion of the property is very close to the neighboring property lines and that the use of it cannot be changed unless and until a variance is obtained from the Zoning Board of Appeals. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Voigt and seconded by Mr. DiDonna. Mr. Cunningham and Mr. Olvany abstained from voting. The motion was passed by a vote of 4-0-2. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
May 7, 2013**

Application Number: Coastal Site Plan Review #284  
Land Filling & Regrading Application #299

Street Address: 66 Five Mile River Road  
Assessor's Map #66 Lot #49 & #13

Name and Address of Applicant &: Steven & Maeve Zamsky  
And Property Owner: 15 Half Mile Road  
Darien, CT 06820

Name and Address of: Doug DiVesta  
Applicant's Representative: DiVesta Civil Engineering Associates, Inc.  
51 Painter Ridge Road  
Roxbury, CT 06783

Activity Being Applied For: Proposing to demolish the existing residence, construct a new single-family residence with associated filling and regrading, and perform related site development activities within a regulated area.

Property Location: The subject property is located on the west side of Five Mile River Road, approximately 450 feet southeast of its intersection with Berry Lane.

Zone: R-1/2

Date of Public Hearing: April 23, 2013

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices  
Dates: April 12 & 19, 2013

Newspaper: Darien News

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013  
PAGE 19 OF 22

Date of Action: May 7, 2013

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:  
May 17, 2013

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted redevelopment plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The application is to demolish the existing residence, construct a new single-family residence with associated filling and regrading, and perform related site development activities within a regulated area. The existing residence to be razed has a footprint of approximately 34' x 14', is served by an on-site septic system, which will be abandoned as part of this application. The subject property is in the R-1/2 Zone.
2. As part of this application, the property owners will eliminate the existing asphalt driveway which now runs along the northern property line, and retain the existing garage. Due to the location of that garage 1.7 feet from the north property line and 3.4 feet from the west property line, any use of the garage for anything other than a garage and/or storage, will require a variance from the Zoning Board of Appeals.
3. The submitted plans show no work on Lot #13, which is on the east side of the Five Mile River. No construction activity or regrading has been proposed in that location, and none is hereby approved.
4. The Environmental Protection Commission (EPC) approved this project as part of EPC #13-2013. That approval is hereby incorporated by reference. The EPC, in their capacity as the Town's Conservation Commission, submitted a memo to the Planning and Zoning Commission dated April 22, 2013. Those comments have been considered by the Planning and Zoning Commission in this matter. The revised plans dated 4/18/13 reflect the Conservation Commission's desire to have the trees in the southwest corner of the property preserved.
5. The Commission notes the need for the applicant or property owner(s) to file a Notice of Drainage Maintenance Plan in the Darien Land Records. This will alert future property owners of the

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013  
PAGE 20 OF 22

existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.

6. The application has been reviewed by the Commission and as required to be modified herein, is in general compliance with the intent and purposes of Sections 850 and 1000.
7. The Commission finds that the proposed activities with respect to the proposed addition to the residence, if properly implemented, are not contrary to the goals, objectives and policies of the Coastal Area Management Program.
8. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
9. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
10. As required to be revised herein, the proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #284 and Land Filling & Regrading Application #299 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and other site development activity shall be in accordance with the following plans as submitted to the Commission, and as required to be modified herein:
  - Proposed Site Plan, Zamsky Residence 66 Five Mile River Road, by DiVesta Civil Engineering Associates, Inc., last revised 4/18/13, Sheet 1 of 2.
  - Details, Zamsky Residence 66 Five Mile River Road, by DiVesta Civil Engineering Associates, Inc., last revised 4/18/13, Sheet 2 of 2.
  - Zamsky Residence 66 Five Mile River Road, by Austin Patterson Disston Architects, LLC, dated 3/20/13, Drawing No. T-1A, A-104, A-200 and A-201.(The plans shall be revised to reflect that the proposed pool elevation will be 20.0, not 10.0).
- B. Due to the minor nature of this project, the Commission hereby waives the requirement for a performance bond.
- C. As part of the submittal for the Zoning and Building Permits, the applicant shall submit final calculations on proposed building coverage, and specifically note the distances of the proposed residence and pool from the setbacks.
- D. As part of the record in this matter, a Drainage Maintenance Plan was prepared by a professional engineer. The Drainage Maintenance Plan requires the property owner and all subsequent property owners 66 Five Mile River Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013  
PAGE 21 OF 22

Maintenance Plan shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the issuance of a Zoning or Building Permit.

- E. Once the project is complete, and prior to May 7, 2014, the applicant shall submit a final 'as built' map and written certification from the project engineer that all work, including but not limited to the site regrading and drainage system, has been properly completed in accordance with the approved plans.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, approval from the Darien Health Department to abandon the existing septic system; a Sewer Connection Permit from Darien Sewer Services; a Street Opening Permit from the Public Works Department; and a Demolition Permit from the Darien Building Department. The construction of the proposed pool will require separate Zoning and Building Permits.
- H. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (May 7, 2014).

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this action and prior to the start of any work, or this approval shall become null and void.

Chairman Spain then read the following agenda item:

**The Studio, 977-979 Boston Post Road, CBD Zone.**

Request to add an esthetician (makeup, facials and waxing) to the existing hair salon.

Mr. Ginsberg explained that this site has a shared parking facility which benefits by a special provision of the Zoning Regulations and therefore any and every use of the site is subject to review and action by the Commission. The Studio obtained approval from the Planning & Zoning Commission that the only services they offered were hair cutting and styling. Now they wish to perform facials and other personal care services by appointment only. They do need to get approval from the Health Department. Planning & Zoning Commission members reviewed the submitted materials. The following motion was made: That the Planning & Zoning Commission approve the requested expansion of services to include facials and related personal care activities at The Studio in accordance with the submitted materials. The motion was made by Mr. Voigt, seconded by Mr. Cunningham and unanimously approved.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MAY 7, 2013  
PAGE 22 OF 22

Chairman Spain read the following agenda item:

**Amendment of Site Plan Application #24, Goodwives Shopping Center, 25 Old King's Highway North.** Relocation of Farmer's Market from Mechanic Street Parking Lot to a portion of the parking lot at Goodwives Shopping Center.

Mr. Ginsberg explained that the use of the Mechanic Street parking lot for the Farmer's Market on Wednesdays has caused some parking and overlapping use issues. Since the Town still wants to have a Farmer's Market in Town, the request was made to have it at the Goodwives Shopping Center. The Farmer's Market will operate on Wednesdays from the end of May until early December and it will be conducted from noon until 5 P.M. He said that some details about the exact location of the Farmer's Market still need to be worked out by trial and experience. The vendors need to occupy approximately 27 parking spaces. They will be located in the area as depicted on the submitted map, which is in the northern portion of the site and generally as far away from the building as possible. Commission members thought that this was an acceptable arrangement. The following motion was made: That the Planning & Zoning Commission authorize the amendment of the Business Site Plan to allow the temporary establishment of the Farmer's Market within the Goodwives Shopping Center on Wednesdays from noon until 5 P.M. and operating from late in May until early December each year. The motion was made by Mr. Olvany, seconded by Mr. Voigt and unanimously approved.

Chairman Spain read the following agenda item:

**Approval of Minutes**

*April 9, 2013                      Executive Session/General Meeting*

Several minor modifications and typographical errors were discussed and changes were agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the corrected minutes. The motion was made by Mr. Cunningham, seconded by Ms. Cameron and approved by a vote of 4-0-2. Mr. Voigt and Mr. Olvany did not vote on the minutes.

*April 23, 2013                      Public Hearing/General Meeting*

Several corrections and clarifications were made and agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the minutes as corrected. The motion was made by Ms. Cameron, seconded by Mr. Voigt and approved by a vote of 3-0-3. Mr. Cunningham, Mr. Olvany and Mr. Spain abstained from voting regarding the minutes of April 23, 2103.

There being no further business, the following motion was made: That the Planning & Zoning Commission adjourn the meeting. The motion was made by Ms. Cameron, seconded by Mr. Voigt and unanimously approved. The meeting was adjourned at 10:53 P.M.

Respectfully submitted,

David J. Keating  
Assistant Planning & Zoning Director